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4 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 RANDALL MARQUISE EMBRY,

7 Petitioner,

8 v.

9 STEPHEN SINCLAIR,

10 Respondent.

Case No. C14-5360-BHS-TLF

ORDER DIRECTING PETITIONER
TO FILE AMENDED PETITION
AND ANSWER BY RESPONDENT

11 Petitioner Randall Marquise Embry filed a habeas corpus petition challenging his custody
12 under a state court judgment and sentence. Dkt. 9. On July 7, 2014, the Court granted petitioner's
13 request for a stay, Dkt. 19, and extended the stay on July 21, 2016, but required status reports
14 every 90 days. Dkt. 24. On August 8, 2018, after petitioner failed to file a status report and did
15 not respond to an order that he do so, the Court issued an Order directing petitioner to show
16 cause why the stay should not be lifted. Dkt. 36. Petitioner responded, asserting that he did not
17 receive the prior orders, and requesting until December 24, 2018 to file an amended petition.
18 Dkt. 37. The Court granted petitioner's request. Dkt. 38.

19 On January 5, 2019, petitioner filed a request for an extension of time to file his amended
20 habeas petition noting that the prison library had been closed. Dkt. 39. The Court granted
21 petitioner's request for extension and directed him to file his amended petition on or before
22 March 31, 2019. Dkt. 41. To date petitioner has not filed an amended petition nor has he
23 requested an extension of time to do so.

Accordingly, it is now hereby ORDERED:

- (1) Petitioner shall file his amended petition on or before **May 24, 2019. Whether or not petitioner files his amended petition, the stay of proceedings is hereby lifted.**
- (2) If petitioner files an amended petition on or before May 24, 2019, respondent shall file his answer **45 days after the filing of the amended petition.**
- (3) If petitioner fails to file an amended petition on or before May 24, 2019, respondent shall **file his answer to the original petition by July 8, 2019.**
- (4) As part of such answer, respondent shall state whether petitioner has exhausted available state remedies and whether an evidentiary hearing is necessary. Respondent shall not file a dispositive motion in place of an answer without first showing cause as to why an answer is inadequate. Respondent shall file the answer with the Clerk of the Court and serve a copy of the answer on petitioner.
- (5) The answer will be treated in accordance with Local Rule LCR 7. Accordingly, on the face of the answer, respondent shall note it for consideration on the fourth Friday after filing. Petitioner may file and serve a response not later than the Monday immediately preceding the Friday designated for consideration of the matter, and respondent may file and serve a reply not later than the Friday designated for consideration of the matter.
- (6) The Clerk shall provide copies of this order to petitioner and counsel for respondent.

Dated this 2nd day of May, 2019.



Theresa L. Fricke
United States Magistrate Judge